IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11212 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHETH AN SARASWATI VIDYALAYA

Versus

JASHODABEN BHOGILAL BHAVSAR

Appearance:

1. Special Civil Application No. 11212 of 2004

MR HARSHAD J SHAH for Petitioner No. 1

MR MAHESH BHAVSAR for Respondent No. 1

MR SP HASURKAR, AGP for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 08/02/2005

ORAL JUDGEMENT

Rule. Learned advocate Mr.Bhavsar waives service of notice of rule on behalf of respondent No.1 and

learned AGP Mr.Hasurkar waives service of notice of rule on behalf of respondent No.2. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the legality of the order dated 8th March 2004. By the said order, the Gujarat Education Tribunal was pleased to direct the petitioner herein to calculate the total amount which would be payable to respondent No.1 for the period between 8.4.63 to 30.6.94 and to pay the same within a period of three months. In the order itself, the Tribunal came to a tentative conclusion that the claim of the respondent No.1 would be Rs.1,85,087/-.

3. Learned advocates for the petitioner as well as respondent No.1 jointly submitted that keeping aside the legal issues arising in the present petition, the order of the Tribunal be suitably modified to take care of the interests of both sides. Considering the fact that the payment of salary is ordered right from the year 1963 which would be a large burden on the petitioner since the Government would not bear this burden, at the same time also considering the fact that respondent No.1 Teacher had actually discharged her duties for which the Tribunal found that full salary was not paid and also considering her advanced age, I find that respondent No.1 should be held entitled to receive a sum of Rs.1 lac (one lac) under the order of the Tribunal. This will be in addition to Rs.5,000/- which is already paid to the respondent No.1 by way of cost of this petition. The above amount would, of course, include the amount of Rs.25,000/- already paid over to the respondent No.1 under the interim order of this Court. Both sides have shown their willingness to accept this formula. Learned advocate Shri Bhavsar for the respondent No.1 states that respondent No.1 is present in the court and this formula is acceptable to her.

4. Accordingly, the order of the Tribunal under challenge is modified to the above extent. The petitioner herein shall pay an amount of Rs.75,000/= (Rupees seventyfive thousand only) (in addition to the amount of Rs.25,000/= already paid earlier) within a period of four weeks from the date of this order. With these directions, the petition is allowed partly. Nothing stated in this order will prevent the petitioner from approaching the Government for sanctioning the said amount in accordance with the rules and I am also not expressing any opinion on the allowability of such a request. Rule is made absolute accordingly with no order

as to costs.

(Akil Kureshi, J.)
(vjn)